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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,195	05/14/2001	Raymond Jeffrey May	KCC-14,280	8182

7590 10/30/2002

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application N .

09/855,195

Applicant(s)

MAY ET AL.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-35 is/are pending in the application.
- 4a) Of the above claim(s) 25-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-24, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant's election without traverse of Group III, the species of Figures 1 and 8 in Paper No. 7 is acknowledged.

2. Claims 25-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 7.

Claims 25-29 and claims 30-33, contrary to Applicant's election thereof, do not read on the elected species because such is not shown in the Figures 1-8 or/and disclosed at page 23, line 10-page 30, line 14 with respect to the Figures 1 and 8.

3. The restriction and election set forth in Paper No. 6 is deemed proper and made FINAL.

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawing approval

5. The drawings are objected to because ^{due} Figure 4 and the description thereof in the "Brief Description of the Drawings" section are inconsistent, i.e. Figure is partly cutaway but not described as such. In Figures 5-8, why are ^A different structures, e.g. the 4 different laminates, all denoted with similar numerals, e.g. 100? In Figure 12, the roller next to 342 should also be denoted 342? In Figure 13C, why are ^A the numerals, e.g., 430, the same as those in 13B but not in 13A? The same applies to Figures ^A 15A-15D with regard to the numeral 430? Similarly see ^A Figures 14-15D with respect to the numeral 448. . A proposed drawing correction or corrected

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drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The use of the trademark LYCRA(R)(page 17), KRATON(R), ESTANE(R), PEBAX(R), HYTREL(R), AFFINITY(R)(pages 27-28) and EXXPOL(R), EXACT(R), ENGAGE(R), INSITE(R)(page 29) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Trademarks should be shown either in all capital letters or with the trademark symbol.

7. The disclosure is objected to because of the following informalities: 1) In Figure 12, what is 257? 2) In Figures 9-10 and 16, what is 265? 3) In Figures 3-4, what are 82-85? 4) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims are not commensurate, see MPEP 608.01(d) and 1302.01.

Appropriate correction is required.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Pieniak, '562.

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The material is member 20, see Figure 1 and col. 10, lines 52-53, col. 2, lines 43-51, col. 5, lines 3-12. With regard to claims 20-24, see col. 2, line 59-col. 3, line 6.

10. Claims 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by 3M, PCT '264.

See Figures, page 4, line 15-page 5, line 3, page 7, lines 6-23, page 11, lines 19-31, page 16, lines 24 et seq, page 21, line 22-page 24, line 14, and page 27, lines 24-26.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3M, PCT '264, in view of Wideman, '964.

First and second filaments of different composition are claimed whereas 3M teaches filaments of different density. However, see Wideman, '964, at col. 5, lines 48-57. To make the

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filaments of different composition on the 3M device instead of or in addition to of different density would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Wideman,

13. It is noted that the claimed invention is also taught by other prior art of record, e.g. the combination of Kawaguchi et al and Haffner et al.

14. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday-Thursday.

KMR

October 10, 2002

K.M. Reichle
Patent Examiner